

REMARKS

Claims 1-37 and 45-58 remain in the above-identified application with Claims 1, 18, 45 and 53 being independent claims. Applicant respectfully thanks the Examiner for the allowance of Claims 45-52. However, reconsideration of Claims 1-37 and 45-58 is respectfully requested.

Claim Rejections under 102(b)

Claims 1-4, 6-7, 18-21, 23-24, 53-54, and 56-58 were rejected under 35 U.S.C. 102(b) as being anticipated by Maguire. The Examiner has indicated in respect to independent claims 1, 18 and 53 that Maguire discloses a track joint assembly adapted to connect a track chain together, the track chain having first and second structures 12, 14. The track joint assembly comprising a track pin 20 extending between the first and second structures 12, 14 and an insert 36 surrounding a portion of the track pin 20 with the insert 36 being free floating positioned between the track pin 20 and at least one of the first or second structures 12, 14. The Examiner further indicates that the insert 36 of Maguire includes at least one crown shaped surface thereon (namely the upper surface of the load ring 46) and that the crown shaped surface is located at a substantially central location along the outer surface of the insert 36. Further, the Examiner states that one of the first and second structures 12, 14 includes an inner surface 34 to facilitate sliding rotation with the with the crown shaped surface of the insert 36. The Examiner also indicates that the insert 36 is free floating positioned between the first structure 12 and the track pin 20, and includes a sleeve 30 positioned within the first structure 12 with an inner surface to facilitate sliding rotation with the crown shaped surface of the insert 36.

Applicant respectfully submits that the insert (seal) 36 of Maguire is not free floating but is, in actuality, free to only rotate slightly. According to Webster Third New International Dictionary, the definition of "free-floating" is: i) relatively unattached or attached by a device that allows relatively free movement; or ii) moving or capable of moving in almost ANY direction. The insert (seal) 36 of Maguire is ONLY allowed to slightly rotate with the first structure 12 about the sleeve 30. However, the insert (seal) 36 of Maguire must maintain a sealing connection (compression) between the first structure 12 and

the sleeve 30. This is true in order to perform the function of sealing. Therefore, any movement along the periphery of the insert (seal) 36 cannot be accomplished (unless the seal is not functioning properly) and excessive longitudinally movement will cause leakage in and around the insert (seal) 36. Therefore, the insert (seal) 36 of Maguire is NOT free floating but is truly only a slightly rotating track seal wherein such function is well known in the art. Conversely, Applicant's insert IS truly free floating in that it is free (and designed) to move in virtually any direction along its periphery. This is quite evident from Applicant's disclosure, Page 9-10, paragraph 29, wherein it is stated that Applicant's insert is free to float at continuously different locations around the periphery of the insert to distribute loading and avoid concentrated wear patterns.

Given that Claims 1, 18 and 53 specifically recite that the insert is "free floating", Applicant respectfully requests that the rejection of Claims 1, 18 and 53 under 35 U.S.C. 102(b) should be withdrawn. Additionally, Applicant respectfully submits that Claims 1 and 18 are in condition for allowance and that allowance be given.

In regards to Claims 2-14, 19-21, 23-31, 54-58, these claims are dependent, either directly or indirectly, on Claims 1 or 18 and include additional limitations therein. Given that Claims 1, 18 and 53 are allowable, as argued above, Claims 2-14, 19-21, 23-31, 54-58 should also be allowable. Therefore, Applicant respectfully submits that the rejection of Claims 2-14, 19-21, 23-31, 54-58 under 35 U.S.C. 102(b) should be withdrawn and that such claims are also in condition for allowance and that allowance be given.

Claim Rejections under 103(a)

Claims 15-17 and 32-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Maguire. The Examiner has indicated that Maguire contains all the limitation set forth in the independent claims 1 and 18, but does not specify the dimensional ratios of the insert. However, the Examiner states that it would have been obvious to one of ordinary skill in the art at the time of the invention to product an insert having dimensional ratios suitable for the insert to operate property in the application the insert was designed for, to prevent undue stress on the insert and thus preventing premature failure of the insert.

Given the argument as applied to Claims 1 and 18 above, and that Claims 15-17 and 32-37 are dependent, either directly or indirectly, on Claims 1 or 18 and include additional limitations therein, Claims 15-17 and 32-37 should also be allowable. Therefore, Applicant respectfully submits that the rejection of Claims 15-17 and 32-37 under 35 U.S.C. 103(a) should be withdrawn and that such claims are also in condition for allowance and that allowance be given.

Claim Rejections under Non-Statutory Double Patenting

Claims 1, 15, 45, and 53 were rejected under the non-statutory (judicially created doctrine) obviousness-type double patenting ground as being unpatentable over Claim 1 of U.S. Patent No. 6,485, 116 B1. The Examiner states that although the conflicting claims are not identical, they are not patentably distinct from each other. Also, the Examiner states that the instant claims include less detail than the patented claims, and are thus broader in scope than the patented claims, and therefore, obvious that the Applicant is claiming the same invention but in broader terms. Applicant believes that the Examiner may have meant to reject Claim 18 instead of Claim 15 but that a typographical error occurred. For that reason, Applicant will address Claims 1, 18, 45, and 53 hereunder. If this belief is in error, Applicant respectfully requests confirmation.

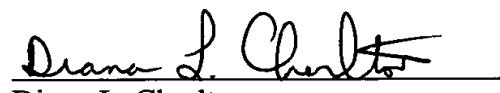
In response to the Examiners rejection, Applicant submits herewith two (2) copies of a terminal disclaimer in compliance with 37 CFR 1.321(c) and signed by the attorney of record in order to overcome the non-statutory (judicially created doctrine) obvious-type double patenting rejection. Therefore, Applicant respectfully submits that the rejection of Claims 1, 18, 45, and 53 should be withdrawn and that such claims are also in condition for allowance and that allowance be given.

Conclusion

The prior art of record has been reviewed and is believed to be inapplicable and not pertinent to the invention as claimed by the Applicant.

It is respectfully urged that the subject application is in condition for allowance and allowed of the claims in the application is respectfully requested.

Respectfully submitted,


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